

THE HON'BLE SRI JUSTICE P.S. NARAYANA

WRIT PETITION No.20615 of 2007

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Date: 19.11.2007

Between:

Smt. A. Dhanalaxmi

... PETITIONER

AND

Joint Collector,
Ranga Reddy District & others.

... RESPONDENTS

THE HON'BLE SRI JUSTICE P.S. NARAYANA

WRIT PETITION No.20615 of 2006

ORDER:-

This Court issued Rule Nisi on 29.09.2006 and granted interim stay in WPMP.No.26139 of 2006. The 4th respondent was impleaded as a party as per the orders made on 30.10.2007 in WPMP.No.24535 of 2007. Respondents 1 to 3 in the writ petition filed WVMP.No.1601 of 2007 to vacate the interim order. Likewise, the 4th respondent, who was brought on record, filed WVMP.No.2796 of 2007 to vacate the interim order.

2. Submissions at length were made by the counsel representing the writ petitioner and also the counsel representing the respondents and further a request was made for the final disposal of the writ petition, in view of the fact that the pleadings of the parties are completed. In view of the same the writ petition itself is being disposed of finally.

3. The writ petition is filed by the petitioner Smt. A.Dhanalaxmi praying for a writ of mandamus to declare the impugned order of the 2nd respondent in passing the suspension order vide proceedings C/2321/2004, dated 04.12.2004, as illegal, arbitrary and against principles of natural justice and consequently set aside the notification No.3268/2006 dated 02.09.2006 issued by the 2nd respondent and pass such other suitable orders.

4. It is averred by the petitioner that the 2nd respondent

appointed her as permanent fair price shop dealer of Venkatapur Village, Saroornagar Mandal, Ranga Reddy District through proceedings No.C/3395/93 dated 25.04.1997. It was initially valid for a period of two years. Subsequently, it was renewed from time to time. In the year 2003, the petitioner handed over her authorization in the office of the 2nd respondent for renewal. Unfortunately, it was misplaced. As per the Order 2001 Clause 6, the 2nd respondent may issue duplicate authorization by collecting fine and fees.

5. Further, it is stated that the petitioner lifted the commodities and distributed the same to the cardholders regularly, which were allotted to her shop. In the month November 2004, due to her marital uncle ill-health and financial problems, there was delay in lifting of the commodities, but she had never lapsed the allotted quota in any month. It is also stated that there was off-take each and every month and no cardholder lodged complaint about the discharge of her duties and she had been discharging the commodities promptly and regularly to the utmost satisfaction of the authorities and the cardholders. It is further stated that surprisingly the 2nd respondent issued suspension order No.C/2321/2004 dated 04.12.2004 against her. After one year he had issued show cause notice No.C/2321/2004 dated 12.12.2005 and she submitted reply to the said show cause notice on 10.01.2006 within the prescribed time. The 2nd respondent due to political pressure issued suspension order after 12 months specifying certain vague charges. Further it is stated that the charges leveled against her are unsustainable and charges 2, 3 and 4 are that she is not maintaining the time schedule, that officers are facing difficulties to inspect the fair price shop to prepare the reports, that she does not have valid authorization and

she is not submitting DDs within time. The 2nd and 3rd respondents never found any misappropriation or stock variation, but due to political pressure to accommodate local political leaders and followers, the 2nd and 3rd respondents are trying to put an end to the said dealership. It is also stated that against the suspension order, she preferred an appeal along with the stay application before the 1st respondent, but the 1st respondent had not taken any steps either for the disposal of the stay application or the appeal and till date the same are pending disposal before the 1st respondent.

6. While the matter stood thus, the 2nd respondent issued notification to appoint another dealer and they are not giving any proper opportunity of hearing to the petitioner. If the respondents proceed with the notification, she will be put to loss and hardship.

7. A counter-affidavit was filed by respondents 1 to 3. The counter-affidavit was sworn to by the Revenue Divisional Officer, respondent No.2. It is stated that the petitioner had submitted application for renewal of authorization on 31.08.2004 i.e., after lapse of 1½ year as her authorization lapsed on 31.03.2003. Since she herself had submitted the original authorization on 31.08.2004, the question of misplacing it would not arise. It is further stated that on 10.09.2004 and 29.11.2004 memos were issued to the petitioner imposing penalty of Rs.5000/- for non-renewal of authorization in time as her authorization lapsed by 31.03.2003 itself, but she failed to respond even after sufficient time was allowed to renewal of the authorization. Further as per the report of the Deputy Collector and Mandal Revenue Officer, Saroornagar, the petitioner herein reported that she had not lifted the entire quota of PDS rice to be distributed to her cardholders in the months of June, July, August and September, 2004 due to

which cardholders faced much difficulty. Her authorization was suspended by proceedings dated 04.12.2004. She had refused to receive the suspension orders dated 04.12.2004 issued by the appointing authority. Further she failed to submit her reply in response to the show cause notice dated 12.12.2005 and thereafter her authorization was cancelled vide proceedings dated 13.02.2006. Further it is stated that the petitioner had not stated on which day the appeal had been filed. The petitioner had not filed the said material along with the writ petition. Further it is stated that she had failed to renew the authorization in time and also she was given ample time to participate in the enquiry to put up her case, but she failed to do so. In the interest of the general public and cardholders, the notification to fill up the vacancy was issued otherwise the public would suffer serious loss. It is also stated that the fair price shop dealer is suppose to distribute the PDS commodities among the cardholders in time, but the petitioner had failed to do so since 2003. The authorization of the petitioner was also duly cancelled due to her failure to distribute the PDS commodities and such distribution is very essential. Unless eligible and proper person is appointed, the need of general public and cardholders cannot be taken care of. Therefore, the notification dated 02.09.2006 had been issued.

8. The 4th respondent stated that she passed B.Com., and she belongs to BC-D caste and in pursuance of the notification dated 06.07.2007 passed by the Special Grade Deputy Collector and R.D.O. Ranga Reddy District, East Division, calling for applications for appointment of fair price shop dealership for Venkatapur Village, she appeared for the interview held on 02.08.2007 and she was selected as fair price shop dealer of Venkatapur Village on temporary basis. Further it is stated that

the Special Grade Deputy Collector and the RDO, Ranga Reddy, East Division passed an order on 30.02.2006 cancelling the authorization of the petitioner on grave charges mentioned in the above order. It is also stated that one Ms. Uma Rani, W/o. Sattaiah of Kothapet Village, Saroornagar Mandal is running fair price shop. Hence, the 4th respondent was appointed as fair price shop dealer by the RDO, Ranga Reddy District, East Division after cancelling the authorization of the petitioner and hence she is liable to be continued as fair price shop dealer.

9. As can be seen from the writ petition, the relief prayed for is challenging the suspension order by virtue of the proceedings in C/2321/2004 dated 04.12.2004 and also the notification No.3268/2006 dated 02.09.2006 issued by the 2nd respondent. The order of the cancellation as such had not been challenged.

10. It is no doubt stated that an appeal had been preferred to the 1st respondent as against the order of suspension and in the light of the counter-affidavit filed by the 2nd respondent it is not clear whether any such appeal or stay application is pending before the 1st respondent in this regard. In the counter-affidavit of the 4th respondent it is stated that she was selected as fair price shop dealer of Venkatapur Village on temporary basis. When suspension, pending enquiry, alone had been challenged and the subsequent cancellation order had not been challenged, this Court is of the considered opinion that in the light of the subsequent events the relief prayed for by the petitioner cannot be granted. However, liberty is given to the petitioner to pursue her remedies open to her especially in the light of the stand taken by her that an appeal and stay application already had been moved. In the counter-affidavit of the 2nd respondent it is stated that the petitioner is put to strict proof of this averment made in the

affidavit filed in support of the writ petition. The petitioner is also at liberty to question the cancellation proceedings in the event of the same having been already served on her and in the event of any non-service, she is at liberty to invoke appropriate remedies in accordance with law even against the said order. Except making these observations, as on today no relief, as such, can be granted in this writ petition.

Accordingly, the writ petition is dismissed subject to the above observations. No order as to costs.

P.S. NARAYANA, J

Date: .11.2007
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